IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION 2161 OF 2005
IN
CRIMINAL APPEAL NO. 385 OF 2004

Vijay Mahadeo Sagwekar ... Applicant
(Orig.Accused No.5)

V/s

The State of Maharashtra ... Respondent

Mr. K.S.Patil for applicant
Mr. S.R. Shinde, APP for the State

Coram : V.M. Kanade, J.

Dated : 08/04/2005

P.C. :-

1 I have heard learned counsel appearing for the applicant and APP for the State.

2 This is a second application for bail filed by the present applicant. Earlier application for bail was allowed to be withdrawn by an order dated 22/03/2004(Coram D.G.Deshpande,J.)with liberty to file fresh application for bail after one year.

3 The applicant was convicted by the Ist Adhoc Addl. Session Judge under section 395 and 342 of the Indian Penal Code and was sentenced to suffer R.I. for 10 years.

4 The prosecution case is that on 29.10.2002 the complainant and his mother after taking the medical treatment were travelling in a car which was being driven by the present applicant. The complainant and his mother were robber by the other passengers in the car. The learned counsel appearing for the applicant has invited my

attention to the cross examination of the applicant wherein she has stated that applicant was driving a vehicle and that he was threatened by accused No.1 of dire consequence and the applicant was compelled to follow the instructions given by the accused No.1.She has further stated that applicant neither assaulted them nor took any ornaments from her. In view of the statement in the cross examination by the complainant,it prima facie appears that the applicant did not share the common intention of the other passangers but was coerced to drive the vehicle by the other acused. Prima facie case is made for grant of bail in view of the statement of the complainant in her evidence.The applicant be released on bail in a sum of Rs.5000/- with one or two sureties in like amount. He shall report to Khopoli Police Station once in a month. Leave to amend.

(V.M.Kanade,J.)